

### The dismantler

Schubert, Karsten

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Karsten Schubert

The dismantler

The carpet in the office has a surprisingly symmetrical pattern, made entirely from old coffee stains. The desks are antiquated, too, but not dirty. Our secretary tried his best to make the offices look nice with plants and some random posters of old book launches and events, mostly from local anti-racism and queer organisations. This is our interim office, and I am not sure if, after the recent political scandals, we will ever move into more permanent facilities. I work for the Office of the Federal Commissioner for the Dismantling of Normalising Power and Structures of Privilege that was created through the *General Act for the Dismantling of Normalising Power and Structures of Privilege* five years ago. My boss, the Commissioner Robert Richardson, was just forced to resign. Now we have someone new, from the conservative party, and she has never hidden her hate for the Office and her plans to dismantle it, instead of dismantling privilege. And to be honest, I am not sure anymore, maybe that would not be too bad after all. I mean, of course I support our cause to fight for equality and against “normalising power” and “structures of privilege”, but maybe it is just not possible to institutionalise it – or at least not in the way it was done.

When the Parliament decided on the *General Act for the Dismantling of Normalising Power and Structures of Privilege*, it was a huge surprise that they voted in favour of this law, which was mainly an idea of the left and Green Party opposition. But after a huge wave of new social criticism of social media that spilled over to the established media, and hardly any opposition from the right wing and conservative parties, the government felt pressured to endorse it. They said that it would help to foster a new dialogue on social justice and – eventually – also help to realise it. And when they created the new office in a breathtakingly fast process of only one year, I thought it might be a nice opportunity to get out of my old job as chief of accounting in the Federal Railway Administration that had bored me to hell. I thought it would be great to actually contribute to social progress, and not only to

manage “irrational technical rationality”. That is also why I encounter a weird bureaucratic irrationality now, I always want to research where the concept actually came from, but then I never do it. Anyway, I am quite happy that I am only responsible for the accounting, and not involved in the policy-making processes here, like Frieda. These were way less stressful in the rail sector, even though the environmental activists used to give us a hard time. But that was nothing compared to the political trench warfare that came along with the “Dismantler”, as everybody quickly started to call the *General Act for the Dismantling of Normalising Power and Structures of Privilege*.

The “Dismantler” is a pretty complicated law, so let me try to explain its rationale. It is directed against what leftists call the “liberal consensus”, that is, the belief that our democratic institutions and the rule of law overall work fine and are the rational outcome of the deliberation process of free people. It reminds me of this social contract thinking we discussed in high school: if there were no state, people would still build one, one pretty much exactly like ours, out of free choice, because it is the rational thing to do out of their own self-interest. And now the leftists say that this is an ideology – which, they say, is obvious already in the fact that such an idea is taught in our schools, in order to make the current regime *seem* legitimate. What is actually structuring our institutions and law, according to them, is exploitation, repression and systems of privilege, upheld by an array of social norms, that even pervade sciences and the structures of knowledge. And this is where the “Dismantler” comes in: it is aimed at making these norms and privileges visible, at getting them out of the ideological blur of liberalism, at shedding light on them and thereby helping to rebuild the system in a more just and equal way. I wanted to join the Office, because I was fascinated by this approach to institutionalising such processes of critique *within* the law. Because, if you look at it, it is squaring the circle: how can you use the very legal and administrative structures that are the root of the problem to solve the problem? Before I started working here, I talked about this puzzle at a dinner with friends, who are mostly academics, one just commented laconically “Well, it’s dialectical”. Everyone nodded. I did not dare to ask what he meant and it was only later that I realised that most people refer to something as “dialectical” to hide that they don’t have a clue about it. Be that as it may, I can tell you that the “Dismantler” is doing two things mainly.

On the one hand, it establishes a principle within the law to control any law or jurisdiction for normalising power and privilege. This forces judges to consider these issues in their jurisdiction. And on the other hand, it installed the new Commissioner and our Office to supervise legal processes and to campaign for such issues. Our Office is necessary because effectively the “Dismantler” cannot really

“force” the judges to follow the principle to control for normalising power and privilege since the whole construction allows for a huge margin of appreciation in counterbalancing proportionality and privilege control. Our job is to advocate for the “Dismantler” and to encourage judges to take privilege into account; and also to sanction a judge if they disregard the “Dismantler”, although it has to be noted that most cases are too complex to hold judges accountable in that way.

Robert Richardson was the first Commissioner for Dismantling Normalising Power and Structural Privilege. Regarding his experience, he was a perfect choice. He was not a member of any political party but had worked in social justice organisations for 20 years. After he received a PhD. in critical social theory, he had consulted the government in mainstreaming intersectionality for a couple of years before he was appointed as Commissioner. His positionality was a bit more contested and did not fit well with the position, as he is a white middle-aged cishet man. You can imagine the criticism. Nevertheless, I originally thought that he was a smart choice because in appointing him the government was able to appease the conservatives who criticise “positional fundamentalism”, showing them that when in conflict, content and competence matters more than social position. It turned out I was wrong, because in the end, he was not competent at all, or somehow “lost” his competence.

After the initial wave of media attention and heated debate over the Office and Richardson’s appointment, things calmed down, and the first cases of problematic jurisdiction we – that is, my colleagues from the legal department – objected to went largely unnoticed in public discourse. Then, one judge, a certain Marcelo Escoto, who is also an outspoken conservative, managed to initiate a scandal and to mobilise a huge wave of right-wing protests against us, after we forced a revision of his sentence. The case was about Patricia Marble, a 28-year-old tech person working in a start-up, a typically privileged expat – and a black *Black Lives Matter* activist. She was under surveillance by the police as they (wrongly) suspected her of dealing. While they found some drugs, it was just a bit of cocaine and not the weed they suspected her to deal with. In the process she was charged with the possession of illegal substances and was sentenced to pay an unusually high penalty. The penalty was that high because Marble defended herself by accusing the police of having racially profiled her, which Judge Escoto interpreted as lack of remorse and general disrespect of the legal institutions, thus justifying the higher penalty. Of course, this jurisdiction was not only ignoring the principle to control for normalising power and privilege, but also actively reinforcing racial privilege by punishing the critique of racism.

When we ordered the revision, Judge Escoto went public, and virally so. He accused our Office of ideological and violent political correctness, which is inhibiting

open debate in general and effective police work in particular. The police unions joined in, affirming that police suspicion is never based on race, but on reasonable hermeneutics that are the result of policing experience. Soon after, a shattered alliance from the right and conservative spectrum mobilised seemingly out of nowhere, claiming that nowadays every white person was automatically charged with racism. For some time, the leading narrative in this scene, especially on *YouTube* and *Twitter*, was that the mainstream media were infiltrated by a network of antiracist liberals and “gender ideology” feminists, all orchestrated by Mossad, to split up the Western (or White – it was never clear for which of these #WEC stands) Enlightenment Consensus. Once, in a coffee shop, I got into a discussion, or argument, with a guy who believes this. It was just impossible to communicate, because he just produced one unfalsifiable statement after another, and to my demands for proof, or coherence, he just replied with more of such statements. The centre of this ideology was a grumbling suspicion that the mainstream media, the politicians, and the academic experts lie and that they only produce “narratives”. They switch deliberately between this total scepticism without claiming that they know what is really going on and advancing a clear and specific “alternative truth” regarding particular questions. Regarding the attacks on the Commissioner, the latter was the case, with the conspiracy spectrum allied in the conviction that the “Dismantler” is Mossad’s project to dismantle “Western/White Enlightenment”.

Of course, nobody in the established institutions actively pushed such conspiracy theories, but it nevertheless put us in the spotlight. We – that is, the colleagues from PR – still managed pretty efficiently to position the Office well in the debate, especially with the help of our new social media manager, Joan, whom I brought into the Office and who is a master in their field. Joan is a former classmate of mine and was fed up with their PR work for a huge car manufacturer and wanted “to do something good” in their life and “give back a little”; and Joan emphasised their sincerity about that by stressing how enormous the pay gap between their old and new job was. I felt an unspecific antipathy towards Joan because of this. When I think about it now, it must have been because our reasons for changing jobs were so similar, and their juvenile and shallow discourse about it made me confront the actual shallowness of my own justifications. It was good that I never showed this antipathy: Joan is not only good in their PR work, they are also a perfect communicator and socialiser. Joan made more friends throughout the Office in one month, than I managed in the whole year I worked here before their arrival. I would have hated them for this, normally, alas they introduced me to everyone, and most importantly Frieda. Before Joan, I had lunch alone, or with my colleagues from accounting. The others did not see us as part of the political project of the

“Dismantler”, but just as accountants – random people essentially. And to be honest, that was fair. My other colleagues from accounting did not even switch to the Office out of political interest, as I did, and quite often they gossiped about the politics that the Office was pushing, and which they did not understand, but in any case rejected. With Joan’s help, I was suddenly well connected to colleagues from nearly all departments, and especially the fancy ones; and, crucially, I had lunch with them – no more isolated accountancy lunches for me. Apart from Frieda, it is these people, and the talks they have over lunch, that are the source of my moderate insight into the political dramas taking place in our organisation.

Such dramas, particularly the trouble Richardson created soon after, even Helge with his magical skills could not help. The case against Marble was revised as we ordered, but then, to our extreme surprise, the revision exactly confirmed Judge Escoto’s sentence. This was very surprising, because the “Dismantler” demands that revisions on its grounds are not decided by a judge, but by a standing jury that consists of judges selected by the most important minority organisations, and *Black Lives Matter* was very influential in this appointment process. One of the initial tasks of the Office was to set up this jury and to organise the selection processes. I can tell you: it was hard. You cannot imagine the fights among the minority group organisations over the influence that my colleagues from the jury department told me about. Many minority groups claimed that due to the systematicity of their oppression and its structural involvement with liberal capitalism, they deserve the largest say in the process. Others argued that you cannot counterbalance suffering and that you need equal representation. Often it was not clear at all who could legitimately speak for whom. For example, there were four Muslim organisations, with different agendas, and the three feminist ones were not able to agree on anything at all after the fights over trans politics back in the 2010s and 2020s. For me, this looked all weird, and I was just annoyed over how unproductive the debates were, how mean and violent the discourse was, and how little real solidarity there was. Why can’t they just cooperate? I mean, there are blatantly evident common enemies, yet nobody could act in unity. Sometimes I thought about changing positions again, and returning to accounting for the Federal Railway Administration, but my old job was now taken and there was no other leading accounting positions open in the whole federal administration. I could have only changed position by accepting a huge loss in pay and retirement privileges, and if I learned one thing here, it is that privileges are important, and I really did not want to lose them.

So why did the standing jury, appointed by the minority organisations, confirm Judge Escoto’s sentence? The reason lies in the fact that the jury members, despite their appointment by the minority organisations, still need to be professional judges.

And that means they are mostly white and bourgeois, and most importantly, socialised in the liberal legal culture that is the root of the problem. At least this is the official rationale of the Office. I was always a bit sceptical of this explanation, it sounded too simple and schematic. It sounded like the “positional foundationalism”, that identity politics were always charged with, and the conservatives always accused the “Dismantler” and the Office of the Commissioner of such positional foundationalism. What they mean by “positional foundationalism” is the idea that social position and political views are necessarily connected, and that even some positions necessarily lead to certain views. It is a crude version of the classic feminist standpoint theory, and the complex analysis of the entanglement of knowledge and power that was developed by critical theorists and French theorists in the second half of the 20th century. However, nobody professional holds such a simple position – it is more of a straw man made up by the conservatives. But still, there seems to be something like a real tendency in such critical theories to fall back into a crude, or “vulgar” thinking, as the few remaining Marxists in these debates like to say.

The complicated thing is how to operationalise these overall very reasonable and realist social theories, without falling into this kind of foundationalism. And I think the Parliament did a good job with the construction of the jury: to let the minority organisations select the jury members is to acknowledge that social position matters, yet to require everyone to be an actual judge takes into account that you cannot reduce qualification to social position, but instead that expertise matters.

Well, the Commissioner did not see it that way. In the weekly heads of department meetings, he got angrier and angrier over the questionable decision of the jury. He said that the “Dismantler” in the current state does not dismantle anything, and effectively works as a cover-up for the ongoing wrongs done by the system by adding to its legitimacy. If criticising the system “from within” works at all, he said, it would be only through installing really subversive institutions, that is, something completely different from the jury that is already “corrupted in the totality of its thinking by bourgeois legal rationality”. One curious thing is that in his rage, he referred more and more to radical political and legal theorists, especially from the old U.S. critical legal studies movement, that pushed the critique of liberal law as a totality being corrupted by capitalism, and sometimes he even, shouting, cited Marx. It was a bit caricaturesque and reminded me of this Netflix show about the 1968 student protests that was very popular at the time. First, the other department heads, especially Frieda and the head of and General Legal Questions, challenged Richardson, but he shut them down, saying we would have to keep our lines closed in these times of crisis, and that the Office needs to be aligned in the position to reform the “Dismantler” to the effect that the professionalism requirement of the jury is

lifted. I did not participate in these debates, of course. After all, I am only an accountant.

Richardson now concentrated on political lobbying for this reform and realigned our resources to this end. We started a political campaign exposing and attacking the legal system as a whole with slogans like “Racism – The Core of Legality”, “Dismantle Professional Judges”, or “No Community Justice, No Peace”. From there it went downhill really quickly. There was no chance any of the parties, not even the left party, could still support Richardson after that, and the government made him resign only a week after we started the campaign. The new Commissioner is Frederica Kemp, really conservative. As I said, she was always fundamentally opposed to the “Dismantler”, and we fear that she is trying to dissolve the Office from within, but so far, the regular work is continuing, though without any executive decisions. Everything feels very much up in the air and no one of my colleagues knows what will happen. What is clear is that nobody wants to work for a ghost institution and against the leadership. We cannot quite imagine how to run the Office without the full political commitment of the Commissioner.

Of course, among us colleagues, we talk a lot about what happened. Two weeks ago, I met with some of them, whom I would by now even call friends, in a bar and we discussed why Richardson failed. Obviously, it was because of his overreaction and quite simply his bad political judgement. He just seemed to have abandoned all realist political struggle, understood as the messy process of working on compromises and improvised solutions that makes it necessary to cooperate even with people who are political enemies. He was not able anymore to give in and accept anything other than his ideal vision of dropping the professional requirement for the jury judges – it was all or nothing. But especially Frieda thought there was more to it, something more structural.

Frieda claimed that it was the corpus of social theory on which the “Dismantler” was based that had opened up the “conditions of possibility” (she was a philosopher by training) for Richardson’s failure. The problem is that this theory operates, in one form or another, with a “hermeneutics of suspicion”. This means that it is sceptical of the surface and the hegemonic narratives with which we explain the world, and looks deeper, for hidden mechanisms and forces. The two main concepts the “Dismantler” uses, “normalising power” and “structures of privilege”, are exactly such forms of a hermeneutics of suspicion. The problem is, now, that once the decision is made as to the fact that the surface level cannot be trusted and that there is some kind of deeper stratum, it is not clear where exactly this scepticism ends. I was reminded of my discussion with the right-wing conspiracy theorist: even though fundamentally different, he also had something like a “hermeneutics of



suspicion” with an “alternative truth”, as they call it. The difference was mainly that the conspiracy theory was way more random in its scepticism and more fixed in the particular truth it came up with, the Mossad explanation, bending everything according to this story, leaving no room for falsification. Frieda explained that the social theories the “Dismantler” uses are not that random, of course, but the result of an intersubjective, academic and political discourse that is producing plausible insights about the social situation and not just conspiracies. But still, we all also know that these theories are complex, often contradictory and far from being consensually agreed upon. And being interpretations of the social and political world, they cannot be falsified or verified in the “correspondence” way, but are only more or less plausible. And what is plausible for someone is heavily dependent on their overall theoretical and political worldview. According to Frieda, the problem was that Richardson somehow shifted an intersubjective and pluralist hermeneutics of suspicion to a version that was more like the conspiracy theory, with a unified and somewhat absolute idea about what is the cause for the problems: for Richardson the “ideological liberal law” and its judges.

I liked that explanation, especially because it allowed me to stick to the core ideas of the “Dismantler”. The overall idea is good, but Richardson just took a bad path. Yet, the more I thought about it, the more I became sceptical (I guess my job here had an impact on me, after all). You see, Richardson’s explanation was not that far-fetched, and also because it seems a cheap way out to just solve this problem of the “conspiracy fallacy”, as Frieda put it, by just referring to intersubjectivity. After all, that is also what the conservatives say all the time: intersubjectivity, reason, universality. I recently read in a quite plausible analysis of this conservative universality talk that they use it to cloak the fact that they just want to defend their privileges: they invoke intersubjectivity to suppress minority perspectives. So it seems that intersubjectivity does not solve the problem either.

By now, I am frustrated and annoyed, because I do not know anymore if this work makes sense, in the end. Not only because of the political mess, but because of the conceptual confusion: the hermeneutics of suspicion seem to open up the possibilities for bad conspiracy theories, but intersubjectivity stabilises the status quo. When I came here I just wanted to contribute to social progress. I did not imagine that this would entail such political and even conceptual struggles it is really exhausting. I might call my former boss from the Railway Administration tomorrow – I heard that my old post might become vacant again soon.